

REMARKS

Upon entry of the foregoing Amendment, claims 1, 3, 5, 6, 10, 11, 14, 16, 18, 20, 22, 24, 26, 34, 36, 38, and 42 are pending in the application. Claim 1 has been amended. Claims 58 and 59 have been added. This Amendment does not add new matter.

The foregoing Amendment reflects changes to the claims based on Applicant's response dated November 21, 2007, as Applicant understands that the Amendment to the claims included with Applicant's response dated April 21, 2008, has not been entered.

Applicant expressly reserves the right to prosecute the subject matter of the unamended and/or cancelled claims, or any other subject matter supported by the Specification, in one or more continuation applications. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

Examiner Interview

Applicant thanks Examiner Ghali for granting Applicant's representative the courtesies of an Examiner Interview on April 1, 2008 ("Examiner interview"). During the Examiner interview, Applicant's representative discussed claim 1 in light of the rejections as set forth below in further detail.

Information Disclosure Statement

The Examiner has not considered a reference contained in an alleged IDS letter submitted on 10/4/2007 ("alleged IDS letter") as failing to include the appropriate fee and failing to comply with 37 C.F.R. 1.98. See Office Action at pages 2-3. Applicant disagrees with the Examiner for at least the reason that the alleged IDS letter is a third party submission under 35 U.S.C. § 301 by Edward L. Blendermann and not an IDS by the Applicant. Accordingly, Applicant requests that the Examiner affirmatively cite Patent Application Serial No. 10/302,527 listed in the alleged IDS letter.

Specification

The Examiner has objected to the Applicant failing to check the Specification "to determine the presence of all possible minor errors" because the Specification is lengthy and there has been no correction to the Specification made by the Applicant. See Office Action at pages 3-4. Applicant disagrees with the objection for at least the reasons that mere absence of revisions is not indicative of failure to check the Specification. Furthermore, the Examiner has failed to show any basis for the objection. Accordingly, the objection to the Specification must be withdrawn.

Rejection Under 35 U.S.C. § 102

The Examiner has rejected claims 1, 3, 5, 6, 10, 11, 14, 16, 18, 20, 22, 24, 38, and 42 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,475,514 to Blitzer et al. ("514 patent"). Applicant traverses this rejection for at least the reason that the reference relied upon by the Examiner does not disclose each and every feature of the claimed invention. Nonetheless, solely to expedite prosecution of this application, Applicant has amended claim 1 to clarify the invention. As amended, claim 1 recites: "said at least one enclosure comprises an adhesive for adhering said at least one enclosure to said subject's body and wherein said at least one enclosure prevents said at least one organic material from direct contact with said subject's body while said at least one enclosure is adhered to said subject's body using said adhesive." (Emphasis added).

In the Office Action, the Examiner alleges that the polymer foam framework and adhesive layer of the '514 patent "read on the enclosure that prevents the organic material from contact subject's body as required by...claim 1." See Office Action at page 6. However, the polymer foam framework of the '514 patent "functions as a reservoir for the athletic supplement" and is "macroporous." See the '514 patent at column 18, lines 6-10. Thus, the polymer foam framework is merely a porous reservoir that holds and allows passage of the athletic supplement of the '514 patent. Furthermore, the adhesive layer of the '514 patent merely "prevents excessive migration of the athletic supplement from the transdermal patch during storage. It

allows, however, the athletic supplement to be released into the skin once the patch is applied." See the '514 patent at column 9, lines 62-65. (Emphasis added). Thus, once adhered to the subject's body using the adhesive layer of the '514 patent, the polymer foam framework of the '514 patent and the adhesive layer of the '514 patent do not prevent the organic materials from direct contact with the subject's body. Accordingly, the '514 patent does not disclose "at least one enclosure prevents said at least one organic material from direct contact with said subject's body while said at least one enclosure is adhered to said subject's body using said adhesive" as recited in claim 1, for example. For at least these reasons the rejection of claim 1 is improper and must be withdrawn. Claims 3, 5, 6, 10, 11, 14, 16, 18, 20, 22, 24, and 42 depend from, either directly or indirectly, and add features to claim 1. As such, the rejection of these claims is improper and must be withdrawn for at least the reasons set forth above with regard to claim 1.

Rejection Under 35 U.S.C. § 103

The Examiner has rejected claim 26 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the '514 patent in view of U.S. Patent No. 5,651,973 to Moo-Young et al. ("973 patent"). The Examiner has rejected claim 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the '514 patent in view of U.S. Patent No. 6,558,695 to Luo et al. ("695 patent"). Applicant traverses the rejections for at least the reason that the references relied upon by the Examiner, either alone or in combination with one another, do not teach or suggest all the features of the claimed invention. Claims 26 and 34 depend from and add features to claim 1. The '973 patent and the '695 patent fail to cure the deficiencies of the '514 patent as set forth above with regard to claim 1. As such, the relied upon references, either alone or in combination with one another, do not teach or suggest all the features of claims 26 and 34. Accordingly, the rejection of claims 26 and 34 is improper and must be withdrawn.

New Claims 58 and 59

Applicant has added new claims 58 and 59. These new claims should be allowed for at least the reason that these claims are patentable over the references relied upon by the Examiner.

CONCLUSION

Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

By:



Hean L. Koo
Registration No. 61,214

Customer No. 00909

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Direct Dial: 703-770-7673
Fax: 703-770-7901